



UNITED STATES OF AMERICA
BEFORE FEDERAL COMMUNICATION COMMISSION

COMMENTS OF PERSONAL LEGAL PLANS, INC.
ON THE RULES AND REGULATIONS
IMPLEMENTATING THE TELEPHONE
CONSUMER PROTECTION ACT OF 1991
C G DOCKET NO. 02-278 C C DOCKET NO. 92-90

COMPANY BACKGROUND

Personal Legal Plans, Inc. began its business twenty-one (21) years ago in Charlotte, NC, offering a group of professional services needed by families. These services include legal, tax and financial planning. Today, the company has offices in Charlotte, NC; Greensboro, NC; Winston-Salem, NC; and Atlanta, **GA**.

The company believes strongly in the services that it offers the public. Through its telemarketing efforts, the company educates people on the importance of protecting their family and property with an attorney prepared Will. The company offers a prepaid legal plan, whereby, a person can obtain an estate planning service which is both affordable and easy to acquire. Because of our successful marketing efforts, today, we have over 200,000 clients who have utilized our service. However, the need for our service is great because seventy-five (75%) percent of adults in American do not have Wills or need their estate plans updated.

Over the years, our company has spent thousands of dollars in TV, radio, and newspaper ads to get our message across to the public. Unfortunately, none of these medias proved to be cost effective nor was our message fully understood by the public. However, once we introduced telemarketing to arrange face-to-face sales appointments, the public fully understood the value of the services we offered. In addition, because of lower marketing cost, we were able to **make** our services more affordable to a wider number of people. **As an example**, a couple can get an attorney prepared Will along with other estate planning services for a total cost of only \$99.

Our company is not only proud of the services we offer the public, but also the contributions we make to our community. As an example, our company and its employees sponsor the Annual Picnic For the Disabled each September and the Central Piedmont Community College Skyline Race in April.

SUMMARY COMMENTS

Our company supports the current company specific DNC list – it works and it's fair to both the consumer and business. This current regulation provides a proper balance between reasonable privacy interest while at the same time preserving the ability for businesses, such as mine, to engage in legitimate telemarketing activity. We strongly believe that the FCC's proposal of a National DNC list would significantly disrupt this careful balance.

Small businesses, in particular, will suffer if a "all or nothing" National DNC list was enacted. Telemarketing is cost effective and allows small businesses to compete with much larger companies who have greater resources at its disposal. A National DNC list would be a significant barrier for small and new businesses to enter the marketplace – resulting in higher prices and less product choices to the consumer.

We urge **the** Commission to focus its attention to the enforcement of current regulations rather than place added burdens on thousands of companies, such as mine, who conduct their business in an ethical manner. I doubt many small businesses in America are even aware that the FCC may potentially put them out of business with these proposed new rules. Again, we urge you to consider the horrible ramifications a National DNC list would impose on small businesses in the marketplace.

For the reasons set forth in the attachment enclosed, we believe the FCC should not implement a National DNC list

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WHY THE FCC
SHOULD NOT
IMPLEMENT A NATIONAL DNC LIST

A COMPANY SPECIFIC DNC LIST WORKS

1. Our company honors all consumer requests who wish to be included in our company specific DNC list. We have never received, in over twenty-one (21) years of business, a complaint or inquiry from any regulatory body or the Better Business Bureau concerning violating any do-not-call regulation. Our company DNC list has approximately 20% of the telephone numbers in our market area. This list has grown over the years.
2. According to the FCC rulemaking proposal (page 8) there were 11,000 complaints over a two (2) year period which represents 21 complaints per day. If there are 104 million calls to consumers every business day (page 6), then the complaints would represent less than .00002% - that's miniscule!! Based on these statistics alone, there is no basis to further burden legitimate businesses. In addition, further study would be required to evaluate the substance and nature of the complaints compiled by the FCC to make any meaningful interpretation of the numbers.
3. According to my research, the FCC has had no significant level of enforcement actions against potential violators of the existing regulation. Where's the problem? And if there is a problem, why hasn't the FCC taken enforcement action? If there are violators to the existing rules, go after them. Don't penalize legitimate companies.
4. Company specific DNC lists give consumers choices. The majority of people, who become buyers via telemarketing, had no intentions of buying a service in advance of the call. The very nature of telemarketing is to educate the consumer on the benefit of the product/service being offered. Telephone subscribers do not object to telemarketing calls from all callers, only those calls in which they have no interest.
5. Telemarketing exists Only because consumers use it. The \$275 billion in sales from outbound calls confirms people see the benefit of the calls by voting with their wallets.
6. Consumers today, as compared to ten (10) years ago, have many more technological options available to them to screen any unwanted calls without the need for government intervention. The private sector offers a variety of products and services at very modest prices, which a significant quantity of consumers have availed themselves to, such as Caller ID, Telephone "Privacy Manager", "No Solicitation Service", "Talking Caller ID", "Telephone Zapper", etc. These services are in addition to unlisted private phone numbers and tape message machines, which have been in existence for years.
7. Company specific DNC lists preserves businesses ability to persuade its audience while simultaneously respecting the consumer's right to cut off further contact. This approach creates a huge incentive for callers not to annoy the public so as to avoid their potential prospect from requesting to be placed on their DNC list.

A NATIONAL DO-NOT-CALL LIST VIOLATES FREE SPEECH

1. The type of calls blocked by a list would be selected by the government rather than the public. There is no basis for the commission to conclude that exempt calls (political, religious, charities, established business relationship) do not raise the same privacy issues as non-exempt calls. A ringing phone has the same effect on a person's privacy, whether the caller is a politician or someone offering a service.
2. The speaker and the consumer, not the government, should assess the value of the information presented, whomever the caller is. An "all or nothing" approach fails to recognize that, if given the opportunity to choose, some people would permit selected calls to come through. The \$275 billion in sales validates consumers willingness to receive calls.
3. There is nothing in the record to show that consumers do not have adequate means already to control unwanted calls through company specific DNC lists, technological devices and industry maintained DNC lists offered by DMA.
4. A regulation that discriminates between commercial and non-commercial calls where there is no difference in the government's asserted interest in privacy would thus discriminate based on "content" of the speaker. There is no evidence to conclude that consumers find commercial calls more an invasion of privacy than calls from politicians and charities.

A NATIONAL DO-NOT-CALL LIST WILL HARM SMALL BUSINESSES

1. As a small business owner, we rely heavily on personal phone contact to arrange face-to-face sales appointments, either by calling referrals from existing clients or new prospects whose demographics correlate with our existing client profiles.
2. Millions of small business owners and the self-employed such as real estate agents, insurance agents, direct sellers (Mary Kay, Tupperware) rely on the telephone to arrange face-to-face sales meetings. While these businesses and individuals do not view themselves as telemarketers, their livelihood is contingent upon making telephone appointments. There is no evidence that these types of calls generate any significant level of complaints or violations of existing regulations.
3. Small and new businesses do not have the resources to market their services through radio, newspaper and television, as do large companies. In addition, many products and services are more effectively marketed by using the telephone. Other marketing methods (radio, newspaper, TV) are not a substitute or viable alternative marketing method to acquire the same customers. Telemarketing is cost effective, can be tailored to specific people and allows for two-way communication. Limiting small businesses marketing options will have significant economic impact on America's economy and limit the introduction of more innovative and cost effective products **and** services which people would desire.
4. Compliance with a National Do-Not-Call list will have a significant economic burden on small businesses and the self-employed who do not have the resources (time, staff and technology) to manage large lists and keep them current.

5. Small companies should be exempt from any potential DNC regulation since they are local calls, Caller ID is not blocked, most are appointment setting calls where no sale occurs over the telephone, predictive dialers are not often used and the callers work within the community. A face-to-face exemption would probably protect most small businesses.
6. Telemarketing enhances competition in the market place. It provides new and small businesses with the ability to compete in the market place on a more equal footing with large corporations. A DNC list is a barrier to entry for small businesses and anti-competitive by its nature.
- 7 Many small businesses with socially responsible products would be precluded in effectively informing the public of the need for their product i.e., life, health, disability, long term care insurance. etc.
8. Small businesses are the major source of new jobs in America and are the driving force in introducing new products and services to the American public. We cannot stifle American's "entrepreneurial spirit" with burdensome, unnecessary and anti-competitive regulations.